

**UNITED STATES DEPARTMENT OF COMMERCE****United States Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/049,847	03/27/98	BAY	S 102.166A

020311
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HM22/1106

EXAMINER	
BHATTI, T	
ART UNIT	PAPER NUMBER

1627

25

DATE MAILED:
11/06/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)	
	09/049,847	BAY ET AL.	
	Examiner	Art Unit	
	Tahira H Bhatti	1627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 29-32,35,40,42-44,46 and 47 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
 5) Claim(s) ____ is/are allowed.
 6) Claim(s) ____ is/are rejected.
 7) Claim(s) 29 is/are objected to.
 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 11) The proposed drawing correction filed on ____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) The translation of the foreign language provisional application has been received.
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.
 |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
 | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Status of the Claims

Claims 29-32, 35, 38-40, 42-44 and 46-47 are currently pending.

Election/Restrictions

Claim 29 is generic to a plurality of disclosed patentably distinct species (and their use) comprising: compounds of structure: B4-T4-M; B2-T2-M; B8-T8M; and B4-T4-M which encompass conjugate compounds which are independent and/or patentably distinct due to differences in their chemical structure, physico-, bio- chemical properties , that are capable of separate manufacture and/or use; and additionally the searches of each of the Markush structures and compounds contained therein would result in separate and individual burdensome manual and computer structure and bibliographic searches.

Accordingly, Applicant is required under 35 U.S.C. 121 to elect:

- A. one of the above Markush generic B4-T4-M; B2-T2-M; B8-T8M; and B4-T4-M; AND
- B. a single compound within the elected Markush generic selected in A. above.

Applicant is advised that a complete reply to this requirement must include an identification of the species that is elected and a listing of all claims readable thereon. Applicant is entitled to consideration of claims to a reasonable number of disclosed species in addition to the elected species provided all the claims to each additional species are written in dependent form or otherwise include all the limitation of an

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allowed generic claim as provided by 37 CFR 1.141. Applicant's reply must include an identification of such additional species along with a listing of the claims readable on each additional species.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Tahira Bhatti (1627)

Nov. 5th. 2001-11-05

BENNETT CELSA
PRIMARY EXAMINER

